

The Gazette of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 195] NEW DELHI, FRIDAY, JULY 24, 1953

ELECTION COMMISSION, INDIA

NOTIFICATIONS

New Delhi, the 7th July 1953

S.R.O. 1456.—Whereas the elections of Shri Pratap Singh and Giani Rajinder Singh, as members of the Legislative Assembly of the State of Punjab, from the Rupar constituency of that Assembly, have been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Gurnam Singh, s/o Shri Kapuria of Village Lakhmipur, Tehsil Rupar, District Ambala and Shri Basant Singh s/o Shri Bir Singh Village Sheikhpur, Tehsil Rupar, at present residing at Village Akbarpur, near Morinda, Tehsil Rupar;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL LUDHIANA

Harbans Singh, Barrister-at-Law, (District and Session Judge); *Chairman.*

Hans Raj Khanna, B.A., LL.B., *Judicial Member.*

Parma Nand Sachdeva, B.A., LL.B., *Advocate Member.*

ELECTION PETITION No. 300 OF 1952

- ✓ 1. Shri Gurnam Singh s/o Shri Kapuria, caste Ramdasia, Village Lakhmipur, Tehsil Rupar, District Ambala.
2. Basant Singh s/o Bir Singh, Ramdasia, Village Sheikhpur, Tehsil Rupar, at present residing at Village Akbarpur, near Morinda, Tehsil Rupar.

versus

Respondents:—

1. Shri Partap Singh s/o Shri Hardit Singh, Village Chatamali, Kharar, District Ambala.
- Giani Rajinder Singh s/o Shri Ralla Singh, Pleader Rupar.
3. Shri Ishar Singh s/o Shri Mansha Singh, Village Khabra, Tehsil Rupar.
4. Shri Braham Dutt s/o Shri Achhru Mal, Sadar Bazar, Ambala, Cantt.
5. Shri Prithvi Singh Azad, s/o Shri Tej Singh Vijay Niketan, Kharar.
6. Shri Piyare Singh s/o Shri Walaiti Singh, Kharar.

7. Shri Teja Singh s/o Shri Mangri Singh, Village Dhanaula, Tehsil Rupar.
8. Shri Dilbagh Singh s/o Shri Gurbux Singh, Pleader, Rupar.
9. Shri Chanan s/o Shri Sundar, Village Chhota Bardar, at present residing at Balmik Mohalla, Cart Road, Simla.
10. Shri Dharam Singh (Captain) Village Badala, Tehsil Rupar.
11. Shri Shamsheer Singh, Village Kakaron, Tehsil Rupar.
12. Shri Sant Ram s/o Badan Singh, Bazar Radha Krishan, Ambala City.
13. Shri Kesar Singh s/o Shri Hazara Singh, Village Kishan pura, Tehsil Rupar.
14. Shri Faqir Chand s/o Shri Devi Dayal (Balmiki) Ward No. 2, Rupar.
15. Shri Mohan Singh s/o Shri Ganga Singh, Government Contractor, Village Bada Bande Mahal, Tehsil Rupar, District Ambala.
16. Shri Amar Singh s/o Shri Faqir Singh, Advocate, Rupar.
17. Shri Sadhu Singh s/o Shri Jiwan Singh, Advocate, Rupar.
18. S Shri Atma Singh s/o Shri Tulsī Singh, Village Majari, Tehsil Rupar.
19. Shri Harsa Singh s/o Shri Fauja Singh, Village Kalewal, Tehsil Kharar.
20. Shri Rodal Singh s/o Shri Santokh Singh, Village Asmanpur, Tehsil Rupar.
21. Shri Ajit Singh s/o Shri Mangal Singh Ward No. 1, Rupar.
22. Shri Gurbux Singh s/o Shri Bhagwan Singh, Kharar Mandi.
23. Shri Dharam Dev s/o Ch. Ganda Ram, Pleader, Rupar.
24. Shri Dalip Singh s/o Shri Inder Singh, Advocate, Ambala.
25. Doctor Piyara Singh, Morinda, Tehsil Rupar.
26. Shri Durga Das Advocate, Rupar.
27. Shri Gurdas Soni, Pleader, Rupar.
28. Pt. Narindar Nath s/o Pt. Kundan Lal, Rupar.
29. Shri Naranjan Singh s/o Puran Singh, Village Mehrampur, Tehsil Rupar.
30. Shri Nank Singh Ramdasia, Village Khanpur, Tehsil Kharar.
31. Shri Ujagar Singh s/o Shri Mangal Singh, Village Kurali.
32. Shri Sarwan Singh s/o Shri Jaimal Singh, Ramdasia, Kalka.

M/s H. S. Doabia, Pran Nath, Dalip Singh, Sucha Singh, Anand Dev Kaushal, Gita Ram Kalsi, Advocates, for the petitioners.

M/s Ajmer Singh, Ram Dayal Kaushal and Gurbachan Singh Sodhi, Advocates, for Shri Partap Singh and Giani Rajinder Singh respondents Nos. 1 and 2.

Shri Ram Rakha Ahulwalia, for respondent No. 32.

ORDER

(PER HARBANS SINGH, *Chairman*)

Shri Gurnam Singh and Shri Basant Singh, two voters of the double-member Constituency of Rupar, filed the present petition challenging the election therefrom of Shri Partap Singh from the reserved seat and Giani Rajinder Singh from the general seat during the last general elections. The election as a whole was challenged, *inter alia*, on the ground that the nomination paper of Shri Amar Singh, Advocate, respondent No. 16, was improperly rejected by the Returning Officer and that nomination papers of M/s Shamsheer Singh, Mahan Singh, Naranjan Singh, Nanak Singh, Sarwan Singh, Piara Singh, Sadhu Singh and Prithvi Singh Azad, respondents, were rejected on the date of the scrutiny i.e. 9th of November, 1951, (for having mentioned only one symbol in the nomination papers, in place of three, as required by the rules) and were accepted on the following day having once rejected them. It was alleged that the Returning Officer had no jurisdiction to do so. The acceptance, of the nomination paper of Shri Mahan Singh, was also challenged on the ground that he, being a member of the Hindu undivided family, which had subsisting contracts with the Punjab Government, on the date of the nomination, was disqualified to be nominated or elected as a member of the State Legislature. These wrongful acceptance of various nomination papers was said to have materially affected the result of election. There were also several allegations of corrupt and illegal practices against Shri Partap Singh and Giani Rajinder Singh, the two returned candidates, respondents Nos. 1 and 2. These allegations were controverted by the two contesting respondents *viz.* Respondents Nos. 1 and

2 and they also raised the objection that the two petitioners could not join in one petition and that the same was liable to dismissal on that ground. The following six Issues were framed as preliminary Issues:

1. Is the petition liable to dismissal on the ground that two petitioners have brought it jointly?
2. Was the nomination paper of Shri Amar Singh, respondent No. 16, improperly rejected and if so has it materially affected the result of the election?
3. Were the nomination papers of M/s Prithvi Singh Azad, Piyare Singh, Shamsher Singh, Mahan Singh, Sadhu Singh, Narinjan Singh, Nanak Singh and Sarwan Singh, respondents Nos. 5, 6, 11, 15, 17, 29, 30 and 32, respectively, liable to rejection on the ground that they mentioned only one symbol each instead of the three required? If so, has their acceptance materially affected the result of the election?
4. Were the nomination papers of the respondents, mentioned in Issue No. 3, originally rejected by the Returning Officer on the 9th November, 1951? If so, did the Returning Officer not have the jurisdiction to later accept them on the 10th November, 1951, and declare the respondents as duly nominated candidates? If not, what is the effect thereof and has the action of the Returning Officer materially affected the result of the election?
5. Were the brother and father of Shri Mahan Singh, under contract with the Government of the Punjab State for supply of goods or rendering of some services? If so, was Shri Mahan Singh not a member of the undivided family consisting of his father and brother and others, and thus not subject to the disqualification mentioned in Section 7 of the Representation of the People Act?
6. If he was so disqualified, was his nomination paper wrongly accepted and if so, has it materially affected the result of the election?

Evidence was recorded on these Issues. As there were allegations of corrupt practices, the Tribunal, on further consideration, came to the view that it was necessary for it to record evidence on those allegations and give a finding thereon. Without giving any decision on the preliminary Issues, therefore, the following further Issues were framed on merits:

7. Were Shri Nanak Singh, respondent No. 30, and Shri Sarwan Singh, respondent No. 32, made to withdraw their candidatures on account of threat of general social boycott at the hands of the persons mentioned in the particulars relating to paragraph 7 of the petition, and if so, what is its effect?
8. Were the posters, marked 'A', 'B' and 'C' as annexures to the petition, published by Jathedar Chet Singh 'Chamak', and if so was it done at the instance or with the connivance of respondent No. 1, and did these contain statements relating to the personal character or conduct of Shri Prithvi Singh Azad, respondent, which were false to the knowledge of respondent No. 1 or which he knew or had reasons to believe to be false; and did these statements seriously affect the prospects of the election of Shri Prithvi Singh Azad? If so, what is its effect?
9. Was the poster, marked as annexure 'D', not published by the persons who purported to have done so and if so, was it done at the instance of respondent No. 1, and if so did it contain statements regarding the personal character of Shri Prithvi Singh Azad, and if so what is its effect?
- 10(i) Did respondent No. 1 exercise undue spiritual influence by use of certain religious symbols or terms as detailed in paragraph 12(d) in the annexures 'A', 'B', 'C' and 'D'? If so, what is its effect?
- (ii) Did respondent No. 1, by means of the posters, aforesaid, make a systematic appeal to the electorate on the grounds of community or religion? If so, what is its effect?
- 11 Was the Return of election expenses, filed by respondent No. 1, false in material particulars to his knowledge as detailed in sub-para. (c) and (e) of paragraph 12 of the petition and the corresponding paragraphs of the list of the particulars? If so, what is its effect?

12. Was the poster, marked as annexure 'R', published by Jathedar Chanan Singh Saware and Jathedar Kirpal Singh Sailba at the instance or with the connivance of respondent No. 2, and if so did it contain statements regarding the personal conduct and character of respondent Sant Sadhu Singh, No. 17, which were false to the knowledge of respondent No. 2, and if so, what is its effect?
13. (Struck off as superfluous).
14. Did respondent No. 2 incur irregular or illegal or unauthorised expenses in connection with his election as detailed in sub-para. (b) of paragraph 13 of the petition read with the corresponding paragraphs of the list of particulars? If so, what is its effect?
15. Was the Return of election expenses, filed by respondent No. 2, incorrect and false in material particulars to his knowledge as alleged in sub-para. (c) of paragraph 13 of the petition read with the corresponding paragraphs of the list of particulars? If so, what is its effect?
16. Did respondent No. 2 and other persons, as given in the list of particulars, make a systematic appeal to the voters for voting for him by using Indian National Flag as alleged in sub-para. (d) of paragraph 13 of the petition read with the corresponding paragraphs of the list of particulars? If so, what is its effect?
17. Did respondent No. 2 cause the publication of hand-bills, marked as annexure 'U' without disclosing on the face of it, the name of the publishers thereof? If so, what is its effect?
18. Were the irregularities, detailed in paragraphs 14 to 21 of the petition and the corresponding paragraphs of the list of particulars, committed? If so, have these irregularities materially affected the result of the election?

Lengthy evidence was recorded on various Issues. I will deal with these Issues serially:

Issue No. 1.—This Issue was not pressed on behalf of the respondent at the time of the arguments and it is found in favour of the petitioners.

Issue No. 2.—This is the main Issue in the case and it is necessary to state the allegations as contained in the petition and the facts, as brought out on the record, in order to properly deal with this Issue.

Shri Amar Singh, Advocate, was originally registered as an elector in the electoral roll for Rupar Town at serial No. 342 and the relevant entry was as follows:

"342 Amar Singh son of Faquir Singh Advocate"

This is shown in the main list. In the nomination paper, as against column No. 8, requiring the electoral roll of the candidate to be given, Shri Amar Singh gave the information as

"342 Rupar Town".

Along with the electoral roll for Rupar Town there were several supplementary lists attached, some adding certain names to the main list, while others scoring out certain other names already on the main list. One of these Supplementaries (Tatimas) relating to 1951 (page 423 onwards of the relevant electoral list) contained an entry of cancellation of the original entry of 342 relating to the aforesaid Shri Amar Singh. Nobody seems to have noticed this entry cancelling the original entry 342. Apparently the Returning Officer also did not notice this and he raised no objection when Shri Amar Singh filed his nomination papers on the 5th of November, 1951. On the date of scrutiny i.e. 9th of November, 1951, when Shri Amar Singh's nomination papers came to be scrutinised, it was pointed out (it is not clear by whom) that the entry "342 Rupar Town" relating Shri Amar Singh had been struck off. According to Shri Amar Singh, on this objection being taken, he at once informed the Returning Officer that he was also registered as a voter in his village Rolu Majra, in Zail Barri Jhallian and as such was fully qualified to stand as a candidate. He also showed the Returning Officer, the relevant entry at serial No. 3241. This entry was to the following effect:

"Amar Singh son Faqiria, Service, Jat Sikh", That this entry was brought to the notice of the Returning Officer is clear from the order of rejection that was written on the relevant nomination paper which is as follows:

"Rejected. The candidate has given his electoral number etc., which does not exist as the name has been erased in Rupar Town. His name

appears on the Badhi Jhalian but nothing certain can be said as to whether it is the same person in so far as parentage etc., differ."

In the words of Shri Amar Singh, who was examined as C.W. 2 by the Tribunal, what happened was as follows:

"Originally Returning Officer stated that it was not possible for him to substitute different electoral number of a different Zail in place of the number already entered in the nomination paper. When I, however, insisted that this could be done because it was merely a technical mistake, he took the further objection that the name of my father and my occupation were differently given and it could not be said with certainty that that entry related to me."

In the evidence of Shri Amar Singh, C.W. 2, and of Sant Sadhu Singh, P.W. 1, it was suggested that the *Tatima* (Supplementary) relating to 1951, by which the entry No. 342 relating to Shri Amar Singh, was struck off, was not available in the Tahsil along with the electoral roll for Rupar Town on the date of filing of nomination papers i.e. 5th of November, 1951, and the same became available sometime between the date of nomination i.e. 5th of November, 1951, and the date of scrutiny i.e. 9th of November, 1951. The electoral roll relating to Rupar Town, which has been produced before us by the Returning Officer, however, contains all the relevant *Tatimas* including the one referred to above and these are all sewn together with the main list. Apparently this list must be available as such, on the date of the nominations, and there is nothing to indicate that the *Tatima* in question came into existence or became available to the Returning Officer or to the public on a date after 5th of November, 1951. The obvious inference is that the *Tatima* containing the entry of cancellation did not come to the notice of any person concerned before the date of scrutiny because the same was more or less inconspicuous. Moreover, as stated by Shri Amar Singh, he had been practising at Ambala for more than three years before the date of nomination and he received no notice to show why his name should not be struck off and nobody of the election department came to make enquiries at his office and consequently he had no reason whatever, to believe that his name had been struck off. The fact, however, remains that on the date of nomination he was not registered as an elector in Rupar Town and the entry No. 342 Rupar Town was legally non-existent.

From the evidence, led on the record, there is hardly any doubt that the entry No. 3241 of Rolu Majra relates to Shri Amar Singh, respondent. The only discrepancy was that the name of his father was given as "Faqiria" instead of Faqir Singh and he was shown as being in "service". In villages, however, persons named "Faqir Singh" or "Faqir Chand" are often popularly called as "Faqiria". Shri Amar Singh has also explained that in the revenue records his father's name was shown as "Faqirla" because he had not become a Sikh and baptised as Shri Faqir Singh at the time of the death of his (Amar Singh's) grand-father and consequently at the time of the mutation his name was entered as "Faqiria". He further stated that from 1935 till 1939 he was actually in military service and that obviously explains why Shri Amar Singh's profession was shown as "service" in the entry. There are four other entries, one immediately before and three immediately after the entry No. 3241 in Rolu Majra. These are in respect of one Shri Faqiria, Shrimati Kirpo, Shri Ram Singh and Shri Karam Singh. Faqiria's father is shown as Sahib Singh. Shrimati Kirpo is shown as the wife of Faqiria and Ram Singh and Karam Singh are shown as the sons of Faqiria. Shri Amar Singh has explained that Shri Sahib Singh was his grand-father, Shrimati Kirpo, his mother and Ram Singh and Karam Singh, his younger brothers. These entries, immediately preceding and following that of Shri Amar Singh, leave no doubt whatever that Shri Faqiria, mentioned therein, was the same person as the father of Shri Amar Singh and consequently the entry No. 3241 did in fact relate to the aforesaid Amar Singh.

At the time of the arguments it was not contested on behalf of the respondents that this entry did so relate to Shri Amar Singh. The sole argument on behalf of the respondents was that inasmuch as a non-existent entry was mentioned in column No. 8 of the nomination paper, that column, for all intents and purposes should be treated as blank and therefore the nomination paper could not be treated to have been completed as prescribed by the rules and consequently was rightly rejected by the Returning Officer. It was further contended that even if the Returning Officer had been satisfied about the entry 3241 of *Rolu Majra* being that of Shri Amar Singh he could not permit that entry to be substituted for the existing entry against column No. 8 because that would be beyond his powers. On the other hand it was argued on behalf of the petitioners that the object of the

rules relating to the filling of the nomination form, was to ensure the identity and the eligibility of a candidate and that in the circumstances of this case the defect in the filling up of the Form was merely technical and not of a substantial nature and that the Returning Officer, by making a summary enquiry, which under the law he should have made, could have easily found that Shri Amar Singh was duly entered as an elector in Rolu Majra and as such was fully eligible to stand as a candidate and should not have rejected his nomination paper.

Before examining these rival contentions of the parties, it would be necessary to look to the relevant provisions of the Act. Section 33 deals with the presentation of nomination papers and the requirements for a valid nomination. According to sub-section (1) "nomination paper completed in the prescribed Form and subscribed by the candidate himself as assenting to the nomination paper and by two persons, referred to in sub-section (2) as proposer and seconder" has to be filed on or before the appointed date. Sub-section (2) deals with the proposers and the seconds and sub-section (3) with the declarations that are to accompany a nomination paper for nomination as a candidate from the general and the reserved seats and need not be reproduced. Sub-section (5) deals with the duties of a Returning Officer when a nomination paper is presented to him and is to the following effect:

"On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral rolls:

Provided that the Returning Officer may—

- (a) permit any clerical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls: and
- (b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked."

The form of the nomination paper is prescribed under rule 4 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951, (hereinafter referred to as the Rules) and is given in Schedule II of the Rules. The various details about the constituency and the candidate are to be given in columns Nos. 1 to 6. In column No. 7 is to be given the constituency in the electoral roll of which the name of the candidate is included, and column No. 8 requires the serial number of the candidate on the electoral roll of the aforesaid constituency to be stated. Rule 4, under which the aforesaid form is prescribed, runs as follows:

"Every nomination paper delivered under sub-section (1) of section 33..... shall be completed in the form specified in Schedule II."

The provisions of sub-section (1) of section 33 and Rule therefore, require a candidate to complete a nomination paper in the form prescribed before the same is delivered to the Returning Officer, and consequently it is the duty of a candidate to fill in the form correctly in all respects, by giving proper information against the various columns. Section 36 of the Act deals with the scrutiny of the nomination paper, and authorises the Returning Officer to reject the same, *inter alia*, if it does not comply with the provisions of Section 33. Sub-section (4) of Section 36, however, provides that:

"The Returning Officer shall not reject any nomination paper on the ground of any technical defect which is not of a substantial character."

The most important point for consideration, therefore, is as to what consequences following if there is any mistake in the completion of the form. What mistakes can be allowed to be rectified or overlooked as being immaterial or technical and not of substance? According to the counsel for the respondents 1 and 2, Sub-section (5) of Section 33 and Sub-section (4) of Section 36, authorise the Returning Officer to allow correction of, or to overlook as technical of substantial nature, minor errors of details in the nature of printing or writing errors only and that in case of omissions or other errors the nomination paper must necessarily be rejected because the Form cannot be said to have been completed in accordance with the Rules. On the other hand, it was contended on behalf of the petitioners, that the object of eliciting information in the Form is only to ensure identity and eligibility of the candidate etc., and no error which does not defeat this main objective, should result in the rejection of the nomination paper.

Reference was made to a large number of decided cases in support of the contentions of the petitioners and the respondents as given above. Though the cases are decided on the facts and the circumstances peculiar to them, yet an examination of the facts of these cases and their *ratio deci-dendi* do certainly afford a guide to the correct approach to the subject. A few of these cases may, therefore, be looked into with advantage.

I.—Where sub-division was not mentioned.—

(a) In *Anglo-Indian Constituency case No. 1.*—(Doabia's Indian Election Cases, Volume I, page 247), the electoral roll of the Constituency was divided in the several sub-divisions each beginning with serial No. 1. While giving the electoral number, the candidate failed to mention the sub-division, though there was a direction in the foot-note of the nomination form for doing so. A number of decided cases were discussed, and it was held that:

"The decisions have all hinged on the findings of facts whether or not there has been a substantial compliance with the rule. The object of the information given in the form, as has been pointed out over and over again, is to enable the Returning Officer and others interested to test the identity and eligibility of a candidate. The name of the sub-division does not throw any light on these important points. It merely aids the Returning Officer in the mechanical operation of locating a name in the electoral roll. If in spite of the total omission to describe the sub-division or inadequate description, a name in a certain roll can easily be located, it must be held in that case that there has been a substantial compliance with the Rule and the nomination would be good. If, on the other hand, the information is so meagre as to entail a laborious search in the roll, it must be found that there has been a substantial compliance and the nomination would be bad."

(b) Contrary view, however, was taken in *Gondia General Rural Constituency, 1937*, (Sen and Poddar page 326) and it was held:

"that omission to mention sub-division made it difficult or even impossible for a rival candidates to check the identity of the various proposers and seconders, and so deprive him of his right to object to a nomination paper on the ground that they were not disqualified persons."

The strict view, taken in this decision, has not generally been followed.

(c) In *PEPSU Tribunal case, Mathra Das Versus Dara Singh etc.*, (Gazette of India, Extraordinary, dated the 21st of January, 1953, page 865), the electoral area was misdescribed as "Halqua Patwar Amloh" instead of giving ward, village or Town as the electoral area of Amloh. It was held that:

"without any elaborate search the candidate's number could be located, and that the provisions regarding the filling up of the Form was directory and a substantial compliance was sufficient."

(d) In case *Tikaram Sharma Versus Lalit Bahadur Kharga* (Gazette of India Extraordinary, dated the 15th of October, 1952, Page 2285), the relevant electoral roll was in two parts (A) and (B) and the nomination paper was rejected for failure to mention the part in which name of the candidate was included. There was no question of any doubt as to the identity and the eligibility of the candidate. It was not a case of fishing or laborious search. "The omission is a very minor and technical and is not of a substantial nature."

(e) In *Delhi Tribunal Case*, Gazette of India Extraordinary, dated the 27th of February, 1953, page 567). It was observed at page 569 that the mention of sub-division certainly facilitated the identification of the proposer, so as to ascertain whether the person is qualified to act as such or not,

"Where, however, there is no doubt about the identity of the proposer or his capacity to act as a proposer, a mere omission of a small detail in his description in the nomination paper ought not to affect the matter."

(f) Recently this Tribunal in *Shri Shiv Dayal etc., Versus Shri Teg Ram etc.*, after discussing the various cases including most of the cases mentioned above, held that:

"the omission of the name of the sub-division in columns Nos. 8, 10 and 14 against the electoral numbers of the candidate, proposer and the seconder, was not a material omission and the rejection of the nomination paper on this ground was improper."

II. Age.—

(g) In Raipur North Case Hammond's Election Cases Volume II page 232, the age was given as 30, while in the electoral roll it was 33, and it was given as 'Tikrapara', while in the roll it was 'Tikra'. As there was no doubt about either the eligibility of the candidate or the name of the village, the defect was overlooked.

III. Other omission and Defects, in giving the electoral number or the mention of the Constituency.—

(h) Midnapur South case (Hammond Volume II page 185—Rai P. K. Dass Bahadur *Versus* Chetan Narinjan Dass) related to election in 1924 and appears to be one of the earliest cases in which the fact of non-mention of electoral number was considered. Rules, as changed in 1920, required the electoral number to be mentioned in the Form. The Form was given without filling in the electoral number as the information was not available, and the same was conveyed to the Returning Officer as soon as obtained, and was again brought to the notice of the Returning Officer on the date of scrutiny. The omission was held immaterial. At page 189 of the report it was observed as follows:—

"The object of the information required to be furnished in the form is to allow the elector or the constituency an opportunity of testing whether the candidate is a duly qualified elector."

(i) In Bhandara District case (Doabia's Election Cases, Volume I, page 21) the constituency and the name of the candidate were given incompletely and wrongly. The father's name and the sub-division were not mentioned at all. The name of the candidate was "Vinayak Damodar Kotle." He, however, mentioned against the column for the name of the candidate the word "Vinaka" and immediately below that in the space meant for father's name he wrote "Damodar" and signed at the appropriate place as "V. D. Kotle". It was held that "a strict adherence to the electoral roll is not absolutely necessary." The omission of sub-division was also considered to be immaterial though it was stated that:

"Omission of the sub-division is a serious irregularity having regard to the instructions contained in the foot-note in the form of the nomination paper."

It was further observed that:

"The details to be filled in the nomination paper are intended to ensure the eligibility of the candidate, the proposer and the seconder.... in case of an objection."

(j) In Betul District case (Doabia's Indian Election Cases, Volume I, page 211) only initials and surname of the candidate were given and the nomination paper was rejected for failure to give full name, notwithstanding the fact that in the electoral roll only initials and surname was given. This case seems to have taken an extreme view, which, it is submitted, is not correct. Incidentally, in this case it was held that the respondent could urge only those grounds in support of rejection of the nomination paper which were taken by him before the Returning Officer. This view also runs counter to the generally accepted view, that a respondent can urge all grounds on which the nomination paper can be attacked, notwithstanding the fact that he raised no objection at the time of scrutiny. See Secunderabad Deccan case (*S infra*).

(k) In Rohtak case (Hammond's Indian Election Cases Volume I, p. 182) the name of the seconder and his signatures were not opposite the column meant for the purpose. The point of omission to fill up the columns for the proposer's name arose only casually and the defect was not taken serious notice of.

(l) In Anglo Indian Case (Lewis *Versus* Gibbons, Sen and Poddar at page 883) father's name was not given. The omission was considered to be immaterial.

(m) In *Thathe Gopal's case* (Gazette of India Extraordinary, dated 15th of November, 1952, p. 2420) instead of giving the electoral number of the Assem Constituency, in which the candidate was entered as an elector, the candidate gave the number at which he was entered in the "Nasik Local Authorities Constituency" for a seat in the Council. The objection was taken that the nomination form was liable to rejection for the electoral roll number of the Constituency not having been given. It was further contended that although the proposers and seconders must belong to the Local Authorities Constituency, the qualification of a candidate to stand for the Council, from this Constituency, depended on his being entered

as an elector in the Assembly Constituency. The learned Tribunal, however, held that:

"The non-mention of the name of the Assembly Constituency and the number of the candidate in that electoral roll at best is a technical defect which is not of a substantial character."

With regard to the functions of a Returning Officer, the observations made in paragraph 13 at page 2475 of the report, above mentioned, may usefully be reproduced:

"To sum up the position, as it appears to us, under Section 33 the Returning Officer is expected to do the work of verification; in the first place, he must satisfy himself that the names and electoral roll numbers of the candidate and his proposers and seconders are the same as those entered in the electoral rolls; if he finds that there is a clerical error he should permit the nomination paper to be corrected; he must further satisfy himself that if the name of the candidate is not registered in the electoral roll of the Constituency for which he is the Returning Officer, he should call upon the person presenting the nomination to produce a copy of the electoral roll in which his name is included."

(n) In Vellore Tribunal case (*Gazette of India*, dated 20th of November 1952, p. 2457) the electoral roll number was not given and the nomination paper was rejected. The case was really decided on the point that the man was not qualified to stand as a candidate because his name was not borne on the rolls, on the date of nomination. However, observations were made by the Tribunal to the effect that filling up of columns 7 and 8 was not a mere matter of form but of substance. In paragraph 10 of the judgment at p. 2461, reference was made to certain English cases wherein it was held that the wrong number of the seconder or the omission to mention the number would result in the rejection of nomination paper. The decisions in these cases, however, depended on the peculiar facts of those cases. For example, in *Baldwin Versus Ellis* (1929 1 KB 273), one of the cases referred to, the name of the parish was not stated. This was required to be stated in an election of a Local Government Rural District Council against column No. 5 under the heading "How qualified." Rule 4 of the Rural District Councillor's Election Order, 1898, required that the persons nominated should be local Government electors and as the name of the parish in which the candidate was registered and due to which the qualification was claimed, was not stated, the nomination paper was rejected. The observations made in this case, therefore, which were hardly necessary for the decision of the case before this Tribunal, cannot be attached much weight.

(o) In West Bengal Tribunal case (*Gazette of India Extraordinary*, dated 18th of December, 1952, p. 991), instead of mentioning the "Murshadabad Parliamentary Constituency" and the electoral number at which the candidate was registered therein, he mentioned in column Nos. 7 and 8, the Assembly Constituency (which formed a part of the Parliamentary Constituency) and the electoral number therein. The nomination paper was rejected for this defect, and the rejection of the nomination paper was upheld by the Tribunal. It was observed that such necessary particulars should be stated in "unequivocal", "unambiguous" and "explicit" terms in the nomination form, with all respect, it appears that the view taken was too technical. Assembly Constituency was a part of the Parliamentary Constituency, and there could be no doubt about the identity or eligibility, and defect, it is submitted, was only formal.

(p) In Gorakhpur Case (*Suraj Narain Versus Sri Ram Nath etc.*, *Gazette of India Extraordinary*, dated 24th of January, 1953, p. 205), the electoral number of the seconder was given as 729 instead of 728 as a result of mistake in printing in the electoral roll. At page 208 it was observed by the Tribunal:

"It is thus clear that the Returning Officer should have satisfied himself by looking into the electoral roll of Deoria South Constituency which was before him and he should have satisfied himself by making inquiries from respondent No. 9 as to how No. 729 had been entered instead of No. 728 regarding Ram Narain seconder, and if this had been done the mistake in printing would have been brought to his notice in no time."

(q) In Bikaner Tribunal Case (*Bankat Lal Versus Madan Mohan*, *Gazette of India Extraordinary*, dated 3rd of February, 1953, p. 261), the proposer's name was left blank, but he signed his name legibly and in full against column No. 12. Other columns were properly filled. The defect was considered to be only of a technical nature.

(r) In PEPSU case (Bareta Badlada Constituency, *Gazette of India*, dated 7th of March, 1953, p. 711), the name of the seconder was not given against column No. 13 provided for the purpose. Other information was, however, correctly given in columns 14 and 15 and the seconder legibly and clearly signed his full name against column No. 16. The two Members of the Tribunal came to the conclusion that this omission was fatal and took the view that:

"the name must appear in the form itself and in its proper column."

They were further of the view that such an error could not be called a "clerical mistake" because a "clerical mistake" presupposes some writing which has already been put down on paper and if there appeared inaccuracies or misdescriptions of unobjectionable nature in it, the Returning Officer could get corrections made in the electoral roll the giving of an inaccurate name could possibly be cured by corrections, but the total omission of the name could not be treated as a mere matter of form. Reliance was placed particularly on *Gondia General Rural Constituency* case, discussed at (b) above, and the Bikaner case (q *supra*) was sought to be distinguished. Particular stress was laid on the identity and eligibility of the candidate etc., being different from the necessity of properly filling up of the nomination form in accordance with the rules. Beutal case (j *supra*) was referred to, and it was observed:

"It is one thing to say that the form has not been duly filled in, and quite another that the proper and the seconder is not identical with the person whose electoral number is stated in the form."

The Chairman of the Tribunal, however, took a contrary view and followed the decision in Bikaner case, and after discussing the various cases, including some of those discussed above, observed at p. 723):

"A substantial compliance is all that is required..... The object of prescribing different entries in the nomination form is that the identity or eligibility of the candidate and the proposer and the seconder should be readily ascertainable. The filling up of particular columns in the form is to ensure that object and is not an end in itself."

(s) In Secunderabad case (*Gazette of India*, dated 4th of April, 1953, p. 1056), the electoral number at which the candidate was entered, was not given against columns Nos. 7 and 8. In fact, the candidate had applied before the date of the nomination for the inclusion of her name in the rolls under rule 20(2) of the Representation of People (Preparation of Electoral Rolls) Rules, 1950, and she received the intimation that her name was included in the electoral roll on the day the nomination paper was filed and there was no serial number given to her till then. It was observed at page 1058 that:

"Insistence on serial number being given will defeat the object of Rule 20(3)" (of Rules of 1950) "which provides that the roll will be deemed to have been revised when order for its revision is issued by the Election Commission. Apart from that, the object of the details to be mentioned, in nomination papers is to ensure the identity and eligibility of the candidate, omission, discrepancies and irregularities which do not affect this, do not matter..... It is well settled that the provisions, relating to filling up of the nomination papers, are not absolute and need not, therefore, be fulfilled exactly."

The perusal of various authorities, some of which are mentioned above, disclose certain principles, relating to the nomination papers, which have generally been recognised and may be stated as under:—

- (1) The rules relating to the filling up of the nomination form are not mandatory but are merely directory.
- (2) It is not every defect in the filling up of the Form that will entail the consequence of its rejection. The form need not be filled in with meticulous accuracy but it is enough if the rules are substantially complied with.
- (3) The object of the particulars, required to be given in the Form, is to ensure a ready source of information to the Returning Officer as well as to the electors who might be interested in checking up the identity or the eligibility of the candidate, the proposer and the seconder to stand, propose and second respectively.

- (4) It is the duty of the Returning Officer to carefully check the name and the electoral number of the candidate, the proposer and the seconder, to make sure that the same tally with those given in the electoral rolls.
- (5) If there are some clerical mistakes in regard to these two matters, he should point out the same to the candidate. He may either allow such clerical errors to be corrected, to bring the entries in the nomination Form, in conformity with those in the electoral roll or may direct the same to be overlooked.
- (6) The duty of the Returning Officer to point out such mistakes and that of the candidate to properly fill in the Form are not inter-dependent and the failure of the Returning Officer to point out the mistake will not relieve the candidate from filling up the Form properly and facing the consequences of any material defects in the same.
- (7) Right to contest an election is a very valuable right and a candidate should not be deprived of it on mere technicalities, if he is otherwise qualified and has in substance complied with the provisions of Law.
- (8) The names and electoral numbers of the candidate, the proposer and the seconder, as given in the nomination Form need not literally agree with the description in the electoral roll.
- (9) In view of the special provisions regarding checking of, and allowing corrections in respect of *names and electoral numbers*, at the time of filing of the nomination papers, strict compliance should not be insisted in respect of *names and numbers* at the time of the scrutiny, and a nomination paper should not be rejected for any error in these matters, if the identity and the eligibility of the subscribers are not in doubt and nobody has been misled about the same.
- (10) The Returning Officer should perform his duties of scrutinizing the nomination papers in a quasi judicial manner and should not mechanically reject a nomination paper which may appear to suffer from any defect. He is not precluded from making, and in fact is enjoined upon to make a summary enquiry—and for that purpose can grant an adjournment upto two days—in order to clear up any doubt or obscurity that might arise on account of the defect. The Returning Officer should pass the final order or rejection or acceptance, in the light of the enquiry so held.
- (11) The Election Tribunal can go into the question of, and decide the propriety or otherwise of, the order of rejection or acceptance passed by Returning Officer and in doing so can make a detailed enquiry and is not confined to the material which was before the Returning Officer.
- (12) The decision of the Returning Officer can be challenged before the Tribunal, even on grounds which were either not urged or which were over-ruled and not considered by the Returning Officer, and the petitioner can even take up, as a ground of attack against the order of the Returning Officer, a point, which runs counter to that taken up by him before the Returning Officer and on which the decision of the Returning Officer was based.

Though these principles are fairly well settled, their application to the facts of the particular cases has not been and could not be uniform.

In the present case, on behalf of the respondents, it was contended, relying mainly on the majority view of the *Bareta Budlada* case ("r" *supra*); that giving of an electoral roll number, which, in the eye of law, did not exist, amounted to an omission of the mention of the electoral roll number and consequently the Form could not be said to have been completed, in the prescribed manner and was rightly rejected. The order of the Returning Officer (reproduced in the beginning of this Order) rejecting the nomination paper, shows that he rejected the nomination paper of Shri Amar Singh, not on the ground of the Form being incomplete, but on the ground that he was not eligible, as the entry No. 3241 of Rolu Majra, brought to his notice, could not be said, with certainty, to relate to him. However, it is open to the respondent to argue that the nomination papers should have been rejected for not having been properly completed.

Having given our careful and anxious consideration to the facts involved and the principles laid down in various cases discussed above, and also to the facts and the circumstances of this case, we are inclined to the view that the nomination

form was improperly rejected. It was complete in all respects. Information was given against all the columns. The mention of the Electoral number which had been scored out from the rolls without this fact coming to the notice of the candidate, would not amount to an omission, but would be equivalent to giving a wrong number and thus may be termed an error in giving of the electoral number. The fact that even the Returning Officer did not notice the mistake and failed to point it out to the candidate, as he was duty bound to do, under sub-section (5) of Section 33, cannot be lost sight of. And it can safely be said, beyond all manner of doubt, that the wrong entry was made, not deliberately nor even negligently, but under a *bona fide* mistake.

At the time of scrutiny when it was pointed out that the electoral number 342 Rupar Town had been scored out, there did certainly arise a doubt about the eligibility of Shri Amar Singh. However, it is nobody's case that the identity of Shri Amar Singh was in doubt or that anybody was misled, about the identity of the candidate. Shri Amar Singh was an Advocate practising at Rupar for over three years before the date of nomination, and according to the evidence on the record, was an influential and fairly well known person in the Sub Division, and it was not suggested that there was any doubt or difficulty about his identity. In view of the doubt about the eligibility of Shri Amar Singh, it was the duty of the Returning Officer to make a summary enquiry into the contentions of Shri Amar Singh that he was entered as an elector in the same constituency in another sub-division, and then to come to a decision on this point.

As discussed above, in Midnapur South Case ("*h*" *supra*) even the entire omission of the electoral number was considered to be immaterial, because the candidate was well known and his identity and eligibility were beyond dispute. There also, information about the electoral number, was supplied after the filing of the nomination paper. Again in Secunderabad case ("*s*" *Supra*) the omission of the electoral number in the constituency, was not considered vital because the number had not been communicated to the candidate by the date of the nomination. If the argument of the learned counsel for the respondent is accepted that the omission to mention the electoral number in the form, at the time of its filing, must necessarily be fatal and cannot be cured either at the time of the filing of the nomination paper (as was the majority view in Bareta Budlada, not being a clerical error) or subsequently at the time of scrutiny, then the reasons for such an omission would be immaterial. And if the omission, by itself, is not to be fatal, as was held in Secunderabad case, and the *bona fide* of the candidate and his reasons for the omission or the mistake have to be taken into consideration, as relevant facts for deciding whether the nomination paper should be rejected or not, for such an omission or defect then certainly the *bona fide* of Shri Amar Singh in the present case, as discussed above, must weigh. We feel that Secunderabad case, Midnapur South case and the minority view in Bareta Budlada case, lay down the correct position of law to the effect, that even an omission to give the electoral number, (and *a fortiori*, given of an incorrect or wrong number) need not necessarily result in the rejection of a nomination paper, if there be good and valid grounds for such omission having been made; and that if the identity and eligibility is beyond dispute, the nomination paper should be accepted in spite of such an omission. In the present case, wrong entry was given under a *bonafide* mistake. Identity was beyond dispute and a summary enquiry would have also established the eligibility of Shri Amar Singh. Under these circumstances, rejection of the nomination paper was certainly improper.

A suggestion was made on behalf of the learned counsel for the respondents that the Tribunal should not reverse the decision of the Returning Officer unless the same is perverse or foolish. This argument was based on the observations made by the Chairman of Jullundur Tribunal (with whose judgment the Judicial-Member concurred, the Advocate-Member holding to the contrary), in Jullundur City North West Constituency (Prem Nath *Versus* Ram Kishan etc., *Gazette of India, Extraordinary* D/19-12-1952/1010 at p. 1019), which are to the following effect:

"It seems to us that the Tribunal would be entitled to interfere with the orders of the Returning Officer only when a perversity or some violation of the principles of natural justice is to be discerned in the impugned order of a Returning Officer. In cases where a Returning Officer may give one of the two possible decisions, it would not be a fit case for interference of the Tribunal."

With all respects we do not find ourselves in agreement with these observations. The Returning Officer rejects or accepts a nomination paper after holding only a summary enquiry. This decision of the Returning Officer is subject to the

result of an election petition. The Tribunal is authorised and enjoined to make a regular enquiry and the parties are permitted to take up grounds which they did not even urge before the Returning Officer and the Tribunal has to decide the legality of the order of rejection or acceptance, on all the material placed before it.

We are fully alive to the fact that an election should not be set aside unless there are strong grounds for doing so, yet, at the same time, we feel that to deprive an elector of his fundamental right of standing as a candidate and fighting an election is a much more serious matter. This encroachment on the right of a citizen has to be guarded against and the Returning Officer, before rejecting a nomination paper of a candidate should make sure, that there are strong and valid grounds for debarring him from exercising this right. He should not prevent a candidate from going to the polls merely on account of some technical defects in the filling up of the form. Where, however, the Returning Officer has rejected the nomination paper, on technical and insufficient grounds, the order of the Returning Officer must be held to be improper.

It was not disputed, that if the rejection of the nomination paper is held to be improper the result of the election has been materially affected.

For the reasons, given above, therefore, we hold that the nomination paper of Shri Amar Singh was improperly rejected by the Returning Officer, and this has materially affected the result of the election.

Issues Nos. 3 and 4.—At the time of the arguments Issues Nos. 3 and 4 were not pressed and, therefore, need not be discussed.

Issues Nos. 5 and 6.—These two Issues are inter-connected and may be taken together. The allegations of the petitioners were that Shri Ganga Singh father of Shri Mahan Singh was an approved contractor with the P.W.D. (Irrigation Branch) of the Punjab State and had subsisting contracts, on the date of the nomination of Shri Mahan with the Punjab State, and inasmuch as Shri Mahan Singh formed an undivided Hindu family with his aforesaid father and other brothers; he had interest in the contracts of his father and was, therefore, disqualified under Section 7(d) of the Act. A good deal of evidence was led in order to show that Shri Mahan Singh was joint with his father. Shri Mahan Singh himself went in the witness box and his father Shri Ganga Singh and his brother Shri Dhian Singh were examined as court witnesses. The latter two admitted that they were separately assessed to Income-tax and neither of them could give an indication as to what income, if at all, was brought into hotch-potch by Shri Mahan Singh. Shri Mahan Singh, as his own witness, also admitted that he never took any part in the contract business of his father and that he was working on trucks and for sometime carried on a shop at Rupar in partnership with someone else. The evidence led, therefore, rather pointed to the fact that probably Shri Mahan Singh was not joint with his father. However, it is not necessary to go into that question because admittedly there is no evidence on the record from which it could be inferred that on the date of nomination or scrutiny or polling there was any subsisting contract between Shri Mahan Singh's father Shri Ganga Singh and the Punjab Government. Shri Ram Rakha Mall, Headclerk of the office of the Executive Engineer, Rupar Division, appeared as P.W. 10 and produced statement Ex. P.W. 10/A giving the names of the various approved contractors and the work orders and the details of the works which had been given to them during the years 1950-51 and 1951-52. The name of Shri Ganga Ram (who is said to be the same as Shri Ganga Singh) is mentioned among the approved contractors and there are shown 2 or 3 work orders shown against his name. There is, however, no indication on what dates these work orders were given and on what dates they were finally executed. It is, therefore, not possible to say whether on the 5th of November, 1951, there was any subsisting contract at all. It has not, therefore, been established that Shri Mahan Singh was disqualified from being nominated as a candidate as being disqualified under Section 7(d) of the Act, and these two Issues are, therefore, found against the petitioners.

Issue No. 7.—This was not pressed nor is there any evidence in support of the allegations forming the subject matter of this Issue and the same is, therefore, found against the petitioners.

Issue No. 8.—Three posters, which were marked "A", "B" and "C" and were filed as annexures to the petition and have been later on marked as Exs. P.W. 29/A, P.W. 29/B and P.W. 29/C, purport to have been published by one Jathedar Chet Singh 'Chamak'.

It was alleged in paragraph 12 of the petition that these posters were published by Shri Chet Singh at the instance and with the connivance of respondent No. 1 Master Pratap Singh and that the statements of fact contained therein, related to the personal character of Shri Prithvi Singh Azad and were false to the knowledge

of respondent No. 1, and that these false statements materially affected the prospects of the success of Shri Prithvi Singh Azad respondent in the election. Respondent No. 1 denied all knowledge of the publication of these posters as well as the fact that Shri Chet Singh 'Chamak' was his agent or worker or that he published these posters with his knowledge or connivance. He further alleged that he had no reason to believe that the statements contained in these posters were not believed to be true or were believed to be false by the aforesaid Shri Chet Singh.

The publication of these posters by Shri Chet Singh "Chamak" is proved by the evidence of Shri Chit Charan Singh P.W. 29 the proprietor of the Kharak Dhari Press Rupar, where these posters were printed. He also produced a copy of the bill that he originally submitted to Shri Chet Singh 'Chamak'. This is marked Ex. P.W. 29/D and is for a total sum of Rs. 50/8/-. According to this witness there were some mistakes in the printing of these posters and as a compromise he was paid by Shri Chet Singh, in the month of February, a sum of Rs. 32 which he received in full and final settlement of the bill. Shri Chet Singh 'Chamak' was not produced by either party, and apart from a bare statement made by P.W. 29, above mentioned, that this Shri Chet Singh 'Chamak' was a friend of Master Partap Singh and the further general statements made by the various P.Ws. that they saw these three posters and others being distributed by Master Partap Singh alone or accompanied by others including Shri Chet Singh 'Chamak', there is no other evidence to connect the aforesaid Shri Chet Singh Chamak with respondent No. 1.

The learned counsel for the petitioner, however, urged that the connivance of Shri Partap Singh for the issue of these posters should be inferred from the following factors:—

- (1) That according to the evidence of the various witnesses, Shri Partap Singh was seen distributing or reading these posters in the constituency during the election.
- (2) That the posters, above mentioned, contained matters derogatory to the character of Shri Prithvi Singh Azad who was a rival candidate of Shri Partap Singh, respondent, from the reserved seat and the latter stood to gain by this false and derogatory propaganda against Shri Prithvi Singh Azad.
- (3) That respondent had, during the election, the support of a Body known as "Pasmanda Sikh Board" and that there were indications on the record that Shri Chet Singh Chamak was a *Mit Jathedar* (Vice President) of the aforesaid Board.
- (4) Oral evidence of distribution of these posters by respondent No. 1.

So far as the question of oral evidence about distribution is concerned there are the following witnesses:

- P.W. 31 Hakim Ram Singh,
- P.W. 32 Giani Janak Singh,
- P.W. 34 Shri Harsa Singh,
- P.W. 37 Shri Mehr Singh,
- P.W. 38 Shri Ram Singh,
- P.W. 48 Shri Harjit Singh,
- P.W. 49 Shri Puran Singh,
- P.W. 50 Shri Kesra Singh,
- P.W. 66 Shri Joginder Singh,
- P.W. 81 Shri Sampuran Singh,
- P.W. 82 Shri Gurbakhsh Singh, and
- P.W. 96 Shri Mehma Singh.

They all make a general sort of statement that they either saw Shri Partap Singh reading out this poster or distributing the same in various villages to which the witnesses belong. This evidence was of a set pattern wherein those, who could read and write Gurmukhi, stated that the posters were distributed by Shri Partap Singh and were read by them while others, who were illiterate, stated that the same were read out to them by Master Partap Singh. Most of these witnesses stated that they were sure that the allegations contained in these posters were incorrect as against Shri Prithvi Singh Azad but still none of them ever went to inform Shri Prithvi Singh Azad of this false propaganda going on against him at the instance of Shri Partap Singh although some of them claim to be his supporters.

In my view it is not difficult to get such partisan witnesses to depose to anything that may be desired of them, and much reliance cannot be placed on their evidence.

With regard to Shri Chet Singh Chamak, being the Vice President of any "Pasmanda Sikh Board", there is no evidence. Voucher No. 26 of the Return of election expense, filed by respondent No. 1, does indicate that one "Pasmanda Sikh Board" did issue a poster in support of his candidature for which he paid the expenses. The learned counsel for the petitioner relied on the last paragraph of the poster Ex. P.W. 29/C; wherein there is some reference to Shri Chet Singh Chamak being the "Mit Jathedar" of the said Board, but as stated above P.W. 29 only proves the factum of the printing of these posters at the instance of Shri Chet Singh Chamak but the correctness of the contents of these posters had not even been put to respondent No. 1 when he was in the witness box much less proved.

The circumstance that the posters, being derogatory to Shri Prithvi Singh Azad, probably helped the candidature of Master Partap Singh, may raise a suspicion but cannot take the place of legal proof of the fact that Master Partap Singh got these posters issued through Shri Chet Singh Chamak. It is quite possible and in this case it does appear probable that Shri Chet Singh Chamak had a personal grudge against Shri Prithvi Singh Azad and replies to the various posters Exs. P.W. 29/A, P.W. 29/B and P.W. 29/C were issued by certain supporters of Shri Prithvi Singh Azad. Poster Ex. P.W. 12/E is one of such posters which was issued by Shri Dalip Singh, Contractor Alipur, Tahsil Rupar, contradicting the allegations made by and using strong language against Shri Chet Singh Chamak. P.W. 12/F is another one of the type issued by the said Shri Dalip Singh. Shri Prithvi Singh Azad, in cross-examination, however, stated that he was not sure whether his permission was taken by the signatory of poster Ex. P.W. 12/E for publishing the same. If this poster, which was certainly in support of Shri Prithvi Singh Azad, could be published without his knowledge or connivance, there is nothing strange in the posters Exs. P.W. 29/A, P.W. 29/B and P.W. 29/C being issued by Shri Chet Singh 'Chamak' without the consent or connivance of respondent No. 1.

There is one further fact which was sought to be used in support of the contention of the petitioner in inferring the connection between Shri Chet Singh 'Chamak' and respondent No. 1, and which on the other hand was taken by the respondent to support his contention that he had nothing to do with Shri Chet Singh 'Chamak'. In the Return of election expenses in Form 'F' relating to the disputed claims one of the items shown relates to these posters. The entry made is in the following terms:

Name & description of claimant.	Name and alleged ground of claimant.	Amount of claim.
Jathedar Chet Singh 'Chamak' of village Balamgarh Madware Kurali.	Publication of four posters.	Rs. 32-0-0.

The counsel for the petitioner contended that as a candidate is to show in the Return only the expenses incurred by him or on his behalf; and that a mention of this item in the Return is an indication that the dispute was not with regard to the liability for the payment of these posters but was only in relation to the amount due. His contention was that if respondent No. 1 disclaimed all liability for the payment of this sum, he need not have mentioned the same in this form. I am afraid I cannot agree with this argument. In the written statement—respondent No. 1 definitely stated that Shri Chet Singh was neither his worker nor did he ever publish any of the posters above mentioned with his (respondent No. 1) consent or connivance, and as his own witness he explained that it was a few days before he had to file the Return that Shri Chet Singh Chamak demanded from him the cost of these three posters, saying that the same had been issued in the interest of respondent No. 1 and that respondent No. 1 disclaimed all liability for the payment saying that he had never authorised him to do so. Normally speaking if any person has helped a candidate during the election by doing propaganda by issuing posters in his favour he would not pick up a quarrel with him over a sum of Rs. 32 except in a case where he genuinely feels that the posters had been issued without his consent, explicit or implied. The fact that this item was shown as disputed in the month of March 1952, at the time of filing the Return, long before there was any question of the election being disputed by an election petition; and about a month after the money had actually been paid by Shri Chet Singh Chamak to the proprietor of the Press, to my mind clearly supports the contention

of respondent No. 1 that these posters were issued by Shri Chet Singh Chamak without his consent or connivance.

The bill Ex. P.W. 29/D also indicates that the number of copies of these posters published was rather small. In two cases 250 each and in one case 500 copies only were got printed. The number of the other posters, which admittedly were got printed and published by respondent No. 1 is 1,000 or more in each case. This smallness of the number of the copies of posters in dispute printed is also an indication that these were published not on behalf of a serious candidate but by some person who was out to have his personal revenge on Shri Azad. For all these reasons, therefore, I am of the view that it has not been proved that the posters in dispute were published with the connivance or consent of respondent No. 1 and consequently he is not responsible for the same.

The allegations, contained in these posters, have been dubbed as false by Shri Prithvi Singh Azad, and the question remains whether these were false to the knowledge of the person publishing the same or that he had no reason to believe them to be true and whether these statements were in respect of the personal character of Shri Prithvi Singh Azad and if so have they materially affected the result of the election. It is not necessary to go in detail into all these matters because I am of the view that these allegations had in no case materially affected the result of the election. Shri Prithvi Singh Azad admitted that he took no steps to counter-act the false propaganda made in these posters and it would not be unsafe to infer that he felt that the allegations in the posters are not going to have any material effect on the electorate. In any case in view of our finding on Issue No. 2, even this aspect of the case is of no importance. The Issue is, therefore, found against the petitioner.

Issue No. 9.—Poster marked 'D' as annexure with the petition is a general poster calling upon the electorate not to choose Shri Prithvi Singh Azad who had betrayed the confidence reposed in him by the Depressed Classes and this poster purports to have been subscribed to and issued by a large number of persons. Some of the alleged signatories were produced as P.Ws. to state that they never signed such a poster nor authorised the issue of the same. They all, however, state that they made no complaint about the wrongful use of their names to anybody. According to the evidence of Shri Amar Nath (P.W. 45), the Proprietor of Bharat Press Rupar, it was at the instance of one Shri Atma Singh of Majri who was a candidate from the reserved seat and whose nomination papers were rejected, that this poster was printed by him. It is further in evidence that the poster was printed in the month of September, 1951, i.e. long before the date of nomination. The suggestion of the petitioner was that Shri Atma Singh Majri, after his nomination was rejected, handed over the posters to Shri Partap Singh who in turn distributed the same in the constituency. Shri Atma Singh Majri was not produced. Another Shri Atma Singh was produced as P.W. 64. All that he stated was that he had suggested to Shri Atma Singh Majri to hand over these posters to Master Partap Singh. He, however, did not know whether the posters were actually handed over to Master Partap Singh or not. The statement of this witness, however, seems to me to be false. He admitted in cross-examination that Shri Atma Singh wanted to stand as a nominee of the Congress, and that, on the rejection of his nomination paper, one Shri Dharam Singh was adopted as the Congress nominee and Shri Atma Singh Majri, who was a *pacca* Congress-man supported both the Congress candidates i.e. from the general as well as from the reserved seat, during the election. This being the case it is not possible to believe that Shri Atma Singh Majri would ever hand over the posters to Master Partap Singh who was the nominee of the akali party and as such opposed to the Congress. If these posters were to be handed over to anybody by him, these would have been handed over to Shri Dharam Singh who was a Congress nominee and who was opposed to Shri Prithvi Singh Azad. In view of the evidence of Shri Atma Singh which, to my mind, is palpably false, it is not necessary to refer to the oral evidence of various witnesses who had stated that this poster along with the other posters Exts. P.W. 29/A, P.W. 29/B, and P.W. 29/C were distributed or read over by Master Partap Singh in the constituency during the election. The allegations in this poster are not of a very serious nature and are more in the nature of criticism of Shri Prithvi Singh Azad as a public man and a representative of the Scheduled castes rather than any attack on his personal character. This Issue, is, therefore, found against the petitioners.

Issue No. 10(i).—Part (i) relates to spiritual undue influence said to have been exercised by Respondent No. 1 by means of posters Exs. P.W. 29/A, P.W. 29/B and P.W. 29/C. In the various posters the words objected to were as follows:—

- (1) Apnian parchlan panthak umaldwar nun pa ke "Guru Kalgi Dhar dhian khushlan prapat karo".—(Ex. P.W. 29/A)

By casting your votes in favour of Panthik candidates, have the Pleasure of Guru Kalgi Dhar (Guru Gobind Singh).

(2) "Sikh dharam nun tabah karan wale kistara vote de haqdar ho sakde han"—(Ex. P.W. 29/B).

(How can the persons who are out to finish Sikh dharam, entitled to your votes).

(3) "Guru ghar dhian khushian prapat karo"—(Ex. P.W. 29/C).

(Have the Blessings of Guru).

It is suggested, on behalf of the petitioners, that these expressions in these posters amounted to undue influence. As I have discussed under Issue No. 8, respondent No. 1 is not responsible for these posters. However, if it can be proved that undue influence extensively prevailed that could be a ground for setting aside the election as a whole under Section 100(1)(a). Undue influence, as defined in Section 123(2)(a) involves an element of inducing fear in the mind of the voters that they would be rendered "an Object of Divine Displeasure or Spiritual Censure". If there is no element of spiritual censure or displeasure, it would not come within the definition of spiritual undue influence. The above mentioned expression only make a reference to the "Pleasure of Gurus" if the votes are cast in a particular manner and do not expressly or even impliedly indicate that those, who would not so vote, would become the Object of Divine Displeasure. It is obvious, therefore, that the expressions used do not fall within the mischief of undue influence and consequently part (i) of Issue No. 10 must be found against the petitioners. In view of the above it is not necessary to discuss the question whether the threat of Divine Displeasure must necessarily move from a person exercising some spiritual or religious status or not.

Issue No. 10(ii).—This part of the Issue was not pressed and must be found against the petitioner.

Issue No. 11.—The Return, filed by respondent No. 1, was dubbed as false with regard to the following points:—

(1) With regard to expenses relating to the posters 'A', 'B' and 'C', the disputed liability was shown for Rs. 32 while in fact the dispute was for Rs. 50/8/-.

There is no force in this because P.W. 29 Shri Chit Charan Singh made a definite statement that the bill was settled with Shri Chet Singh for Rs. 32.

(2) That no personal expenses were shown in Form "A" between 12th January, 1952 and 21st January 1952.

It is true that in Form "A", hire of the car and the use of petrol is shown for the month of November and December, 1951, and upto 12th of January, 1952, but no expense has been shown thereafter. There is, however, no indication on the record that Master Partap Singh did in fact incur any expense for himself on transport or otherwise. This part remains unproved.

(3) That the cost of printing of certain posters 'H', 'J', 'K', 'L' and 'M', which were in the joint interest of both the Akali Dal candidates including Master Partap Singh, has not been shown by respondent No. 1.

Master Partap Singh has denied having issued posters other than that marked 'K'. According to him the other posters were published by Sant Sadhu Singh. This contention of the respondent was not sought to be dislodged by even sending for the Return filed by Sant Sadhu Singh.

If a poster is issued by Sant Sadhu Singh in general terms seeking support for both the Akali candidates, there is no reason why the expense or a portion thereof must necessarily be shown by Master Partap Singh if he had not paid the same. Some effort was made to indicate that even the expenses relating to poster 'K' have not been shown in the Return. It is not quite clear from the record whether this is so or not but, in any case, the accidental exclusion of the expense regarding any one poster would not make the Return false in material respects as there was no suggestion of any corrupt motive for keeping back this expense.

- (4) Rs. 110 alleged to have been spent by Shri Surta Singh at Chamkaur Sahib for supplying tea etc., to the workers and voters of Master Partap Singh not shown:—

The evidence on this point is unsatisfactory. According to Shri Partap Singh he had never asked Shri Surta Singh to make any arrangements of tea etc., and it is further suggested that Shri Surta Singh was helping the rival candidate. It is not possible to give any finding in favour of the petitioners on the solitary statement of Shri Surta Singh, Respondent No. 1, even denied having known aforesaid Shri Surta Singh.

For reasons, given above, Issue No. 11 remains unproved.

Issue No. 12.—The publication of this poster marked 'R' has not been proved. The proprietor of the Press, in which the poster is said to have been published, was not produced. Jathedar Chanan Singh and Jathedar Kirpal Singh, who purport to be the publishers of this poster, have come into the witness box and denied having ever seen that poster or having authorised its publication. In view of this the entire evidence, produced on behalf of the petitioners indicating that this poster was being distributed by Giani Rajinder Singh becomes of no importance. This poster is said to be directed against Sant Sadhu Singh respondent. His name is not mentioned in the poster and in order to connect the allegations in the poster with him, evidence was led to the effect that Giani Rajinder Singh and his supporters announced that the poster, in question, contained "misdeeds" Sant Sadhu Singh. It is not necessary to discuss in detail the question whether the allegations contained in this poster were known to be false to the publishers, whoever they were, because the very publication by Jathedar Chanan Singh and Jathedar Kirpal Singh, has not been established as stated above. The evidence of Sant Sadhu Singh, however, as P.W. 1 recalled on 27th May 1953, does indicate that possibly the publishers could have entertained reasonable grounds for believing the allegations, made therein to be correct. Sant Sadhu Singh admitted that he had been dyeing his beard till about two years before election and he had also been visiting Dera of Ram Rai Ji at Dehra Dun. These two factors could give a reasonable ground for the belief that Sant Sadhu Singh dyed his beard and was a follower of Shri Ram Rai.

I, therefore, hold that neither the publication of this poster at the instance of or with the connivance of respondent No. 2, is proved, nor it is proved that the statements made therein, were false to the knowledge of either respondent No. 2 or the publishers.

Issue No. 13.—It was struck off as superfluous, being covered by Issue No. 15.

Issue No. 15.—It relates to the return filed by respondent No. 2. The Return was attacked to be false in material respects on various grounds and the main points urged were as follows:

- (a) That he received certain sums of money as donations from the residents of various villages namely Ghanauli, Kheri Salabatpur, Dakala and Chandpur, and that this amount was not shown as receipts by respondent No. 2 in his Return. The allegation of respondent No. 2 having received a sum of Rs. 2,000 from Shri Tek Chand, Bar-at-Law, through Shri Jairam Dass and Pt. Anant Ram, Pleaders, was not pressed at the time of the arguments. With regard to the donations P.W. 46 Shri Janak Singh deposed to the fact of a meeting being held at Ghanauli in which Giani Rajinder Singh respondent made an appeal for funds because he was pitched against other respondents who were supported by big men. According to this witness he announced the donation of Rs. 51 and handed it over to Shri Sarwan Dass, the Secretary of the Local Congress Committee in the presence of Giani Rajinder Singh. He also stated that several other persons gave the donations or promised donations. He produced entries of his Bahi Ex. P.W. 46/A in support of his contention. The entry in question Ex. P.W. 46/A-1 runs as follows:

"Rs. 51 page 2 Giani Rajinder Singh through Shri Sarwan Dass Secretary."

The account book, in question, appears to be properly kept and there does not appear to be any reason why the statement of this man should not be believed, so far as the payment of Rs. 51 by him is concerned. However, even according to this the payment was made by Shri Sarwan Dass, Secretary of the Ghanauli Congress Committee. This collection, therefore, can be on behalf of the Congress Committee and

It is an admitted fact that not only Giani Rajinder Singh received financial support from the State Congress Committee but he was also paid some money by the District Congress Committee. Therefore, this payment by Shri Janak Singh or the other alleged to have been made by P.W. 36 Shri Bhagwan Dass, P.W. 65 Shri Gurbachan Singh and P.W. 60 Shri Joginder Singh might have been to the Congress Committee though for the benefit of the respondent and consequently this collection as such need not have been shown by him in his Return. Regarding Kheri Salabatpur we have the evidence of Shri Rulla Singh P.W. 67 and with regard to Dakala and Chandpur P.W. 92 Shri Kartar Singh and P.W. 95 Shri Narinder Singh. In any case there does not appear to be any reason why respondent No. 2 should not have shown this donation in the Return if he had received it. No corrupt motive was suggested on behalf of the counsel for the petitioner for doing so, and we are of the view that even if proved this would be only an immaterial omission.

- (b) *Expenses incurred on tea not included.*—A sum of Rs. 170 out of which Rs. 159/9/0 had already been paid and remaining about Rs. 11 were yet to be paid, were said to have been incurred in connection with tea supplied to the workers or other persons from 25th of November upto 4th of January, 1952, on parchis or chits Exs. P.W. 44/A and P.W. 44/B, said to have been issued by M/s Santokh Singh, Piara Singh, Amrik Singh and Sarwan Singh. Shri Santokh Singh, whose signatures were identified on various parchis by Sant Sadhu Singh as P.W. 1 recalled, was admittedly the clerk of Giani Rajinder Singh who is a practising lawyer at Rupar. Piara Singh is said to be a sister's son of respondent No. 2, and Amrik Singh and Sarwan Singh his workers. The parchis, which according to Pt. Amar Nath P.W. 45 were got printed at the instance of Giani Rajinder Singh in his press, were issued by one of these four persons from time to time. Respondent No. 2, however, stated that Shri Santokh Singh had leanings towards the Socialist candidate and he had terminated his services before the election and that he was not working with him during the election days, and that respondent never had any dealings with the aforesaid Shri Atma Singh. Again it is not necessary to go into this allegation in great detail though there appears to be strong reasons to accept the evidence led on behalf of the petitioner that these parchis were issued and the expense was incurred. The expense, in question, was incurred prior to the polling which started on 4th of January, 1952, and obviously the refreshments must have been supplied to his workers rather than to the voters. Even if this expense had been shown that would not have swelled the total expense beyond the limit prescribed, and we cannot see why the respondent should have excluded this expense from the Return. This being a corrupt practice, we must be satisfied that there was a corrupt motive in keeping back this expense, for which there is no evidence.
- (c) *Hire of cycles not included.*—According to Shri Amar Singh P.W. 68, Giani Rajinder Singh directed him to supply cycles on hire to any person who brought him a chit from his Munshi Santokh Singh. He, therefore, supplied all such cycles during the election days and the total amount came to Rs. 481/14/-, out of which Rs. 200 were paid in advance by Giani Rajinder Singh. In support of it he produced his register and the relevant entries which were marked Ex. P.W. 68-A-1, copy Ex. P.W. 68/B. Giani Rajinder Singh stated that he had hired only a few cycles for which expense had been shown by him and that he had not hired a large number of cycles shown by Shri Amar Singh and that he did not owe him anything. It is to be noted that the total expense shown as incurred by Giani Rajinder Singh is Rs. 6349/2/6 while the maximum allowed to him in a double-member constituency is Rs. 12,000. Therefore, even if this amount had been shown in the Return, the expense would have remained within the limit. The hiring was of cycles and not of cycle-rickshaws and cycles could not be used for transport of voters and consequently there can be no suggestion of any illegal or improper use of the same having been made. It is not, therefore, necessary to further discuss this item of expenditure either, because no corrupt motive has been shown to be there prompting the keeping back of this expense.

Issue No. 14.—The allegations, on which the Issue No. 14, is based, are contained in paragraph 7(ii) of the particulars which run as follows:

"That respondent No. 2 employed (i) Mahesh Chand, (ii) Lajja Ram (iii) Shub Kumar Jain, (iv) Satya Pal (v) Ram Singh (vi) Jai Ram (vii) Lakshmi Chand of Rupar as his clerks for election purposes."

In reply all that was stated by respondent No. 2 was as follows:—

"The respondent did not engage more than two clerks at a time. Mahesh Chand etc., worked temporarily only for a few days for the respondent as mentioned in the Return of Election expenses."

In evidence neither parties made any mention about this matter. In the Form No. 26 part 'B' of the Return the employment of the various persons are shown as follows:—

Mahesh Chand—15th to 19th and again 20th to 26th December, 1951.

Lakshmi Chand—13th to 26th December, 1951.

Jai Chand—17th to 28th December, 1951.

With regard to other four persons no dates are given and it is only stated that Shub Kumar worked for seven days once and nine days again. Similarly Satya Pal worked for six days and again for seven days, Ram Singh for seven days and Lajja Ram for five days. All of them are shown to have worked "as clerks or for doing clerical work". The contention of the learned counsel for the petitioner was that dates of employment of the last mentioned four persons are not given and thus it is not possible to say if anyone of these four persons were not employed simultaneously with the first three and in any case it is obvious that at least between 7th and 26th of December all the three clerks Mahesh Chand, Lakshmi Chand and Jai Lal were employed and this itself constituted a contravention of the provisions of the Act and the Rules. According to Schedule VI under rule 118 only one clerk and one messenger can be employed for every 75,000 electors on the electoral roll of the constituency or a portion thereof. In the present constituency, therefore, candidates could employ at the most two clerks and two messengers at a time, and it was argued that inasmuch as respondent No. 1, according to his own return, employed more than the maximum number of clerks authorised by law, he was guilty of a major corrupt practice, under subsection 7 of Section 123 which runs as follows:

"The incurring or authorising by a candidate or his agent of expenditure, or the employment of any person by a candidate or his agent, in contravention of this Act or of any rule made thereunder."

The learned counsel for the respondents suggested that out of the three persons employed, two may only be treated as clerks and the other may be treated as a messenger, and regarding the failure to give dates about the employment of the others, it should be taken that they were not employed simultaneously with the first three. Speaking for myself, I find a good deal of difficulty in accepting this argument. The point was clearly brought to the notice of the respondent in the petition and he failed to give any explanation in the written statement or in his evidence. All that he stated in the written statement was that he employed them for a short time and that at no time more than two clerks were employed. The argument of the learned counsel for the respondent, however, did find favour with my learned colleagues, and as the matter is not of great importance, because the contravention, if any, is of a technical nature, I have decided not to strike a dissenting note. Possibly the mind of the counsel for the respondent at the time of the written statement or the mind of the respondent at the time of making statement on oath, was not directed to this matter and we may accept the explanation given by him generally that he did not employ more than two clerks at any time. In view of this we find under Issue No. 14 that no contravention of the provisions of the law took place and no illegal expense was incurred.

Issue No. 16.—There is evidence of Capt. Gurbachan Singh that at two polling stations, Kotla Nihang and Purkhall, it was brought to his notice, while acting as the Presiding Officer, that the National Flag was being hoisted on the camp of Giani Rajinder Singh, respondent No. 2. He, on this, went to that camp and the flag was pulled down on this being pointed out to the worker. At one of these polling stations it was definitely stated by the workers that the flag had been hoisted by mistake. What is prohibited under 124(5) is the making of an appeal to religious and national symbols such as the National flag etc.,. There is no evidence that there was any appeal made on the basis of the National flag and the mere fact that National flag was hoisted on the Congress camp for a short while by mistake would not amount to a corrupt practice and in any case there is nothing

to show that this has materially affected the result of the election. It is nobody's case that Chani Rajinder Singh was present at the spot or was responsible for it. This Issue is found accordingly.

Issues Nos. 17 and 18 were not pressed.

In view of our findings on Issue No 2 above, we hold that the nomination paper of Shri Amar Singh was improperly rejected and this materially affected the result of the election and consequently we declare the election to be wholly void.

In view of the fact that the respondents were not at fault for the wrongful rejection of the nomination paper we leave the parties to bear their own costs.

(Sd) HARBANS SINGH, *Chairman*,
Election Tribunal, Ludhiana.

The 24th June 1953.

We agree.

The 24th June 1953.

(Sd.) HANS RAJ KHANNA, *Member*.
(Sd.) P. N. SACHDEVA, *Member*.

Announced.

PRESENT:

S. Gurnam Singh and S. Basant Singh, *Petitioners*.

Memo. for respondents.

(Sd.) HARBANS SINGH.

(Sd.) HANS RAJ KHANNA.

The 24th June 1953.

(Sd.) P. N. SACHDEVA.

[No. 19/300/52-Elec.III/11107.]

S.R.O. 1457.—Whereas the election of Shri Narayan Singh, as a member of the Legislative Assembly of the State of Madhya Pradesh from the Purada constituency of that Assembly, has been called in question by an Election Petition (No. 291 of 1952 before Election Commission) duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Krishnappa, S/o Shri Venkappa Tadurwar, resident of Armori, Tehsil Garhchiroli, District Chanda;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, NAGPUR

Shri N. H. Majumdar, B.Sc., LL.B., *Chairman*.

Shri S. C. Rai, M.A., LL.B., *Member*.

Shri Abdul Razak Khan, *Advocate, Member*.

ELECTION PETITION No. 2 OF 1952

Krishnappa son of Venkappa Tadurwar, age 34 years, resident of Armori, Tehsil Garhchiroli, district Chanda—*Petitioner*.

Versus

1. Narayansingh s/o Sampatsingh Wicko. (Weakcy)
2. Bajirao s/o Ganeshrao Kumre,
3. Raja Ranshah Bapu s/o Gangsha Bapu.
4. Narayanrao s/o Balaji Neral,
5. Ganeshdutt s/o Ishwardutt—*Respondents*.

PRESENT:

1. Shri R. G. Siras *Advocate*, for the petitioner.

2. Shri R. V. S. Mani, *Advocate*, for Respondent No. 1.

ORDER

(Delivered this 29th day of June 1953.)

This is a petition under section 80 of the Representation of the People Act, 1951.

2. The admitted facts of the case are:—

The Petitioner and the Respondents filed their nominations on 15th November 1951 for election to the Madhya Pradesh Legislative Assembly from the Purada Legislative Assembly Constituency. Nominations of these candidates were accepted, but the Respondents 4 and 5, Narayanrao and Ganeshdutta, withdrew their candidature within the time allowed by law. The Petitioner and the Respondents 1 and 3 only contested the election which was held on 22nd December 1951. The counting of votes took place on 31st December 1951 and the result of the election was declared by the Returning Officer on the same day and was published in the Madhya Pradesh Gazette on 29th January 1952. Respondent 1, the successful candidate was declared to have secured 9,456 votes, the Petitioner Krishnappa 9,258 votes, Respondent 2 Bajirao 1,962 votes and Respondent 3 Raja Ranshah Bapu 1,031 votes.

3 The Petitioner has challenged Respondent 1's election on several grounds, which would be apparent from the issues framed, and asked for a declaration that the election of Respondent 1 was void and that he was duly elected as a member of the Madhya Pradesh Legislative Assembly from the Purada Constituency. As the Respondents 1 and 3, who are the only contesting respondents, denied the allegations made by the Petitioner, the following issues arose for decision:—

Issues	Findings
1. (a) Whether the Respondent No. 1 (Narayansingh Weakey) was a Revenue Inspector in the service of Madhya Pradesh Government till 1948? Or, whether his services terminated on 3rd December 1948?	Against the Petitioner.
(b) Whether the Respondent No. 1 (Narayansingh Weakey) was dismissed for corruption and improper discharge of duties?	"
(c) Whether the Respondent No. 1 was bound to produce a certificate under section 9(3) of Act 43 of 1951?	"
(d) Was he disqualified for being elected as a member of the Madhya Pradesh Legislative Assembly for that reason?	"
2. (a) Whether the Respondent No. 1 (Narayansingh Weakey) as a teacher in the New English High School Chanda, was paid dearness allowance from State Funds?	Yes.
(b) Whether the salary also of the Respondent No. 1 (Narayansingh Weakey) as teacher of that school was paid partly from the grant given to the school by the State Government?	See para. 8.
(c) Was the Respondent No. 1, therefore, holding an office of profit under the State Government?	No.
(d) Were the services of the Respondent No. 1 terminated for his failure to attend his duties without leave?	Yes.
(e) Was the Respondent No. 1 thus disqualified to contest the election?	No.
3. (a) Whether during the scrutiny of nomination papers on 17th November 1951 objections were raised to the nomination of the Respondent No. 1?	Against the Petitioner.
(b) Whether the Respondent No. 1 made a declaration in the scrutiny before the Returning Officer that he had resigned his post as Revenue Inspector, and also resigned his post as teacher?	"
Whether these declarations, or either of them, was false?	"
(c) Whether the nomination paper of the Respondent was wrongly accepted?	"

<i>Issues</i>	<i>Findings</i>
4. (a) Whether the Respondent No. 1 and/or his agents issued and distributed pamphlets, in which it was set out that Raja Ranshah Babu had withdrawn from the contest, and that the supporters of Raja Ranshah would vote for the Respondent No. 1?	See paras. 13 & 14.
(b) Whether the Respondent No. 1 had any polling agents?	See para. 15.
(c) Whether the statement in the pamphlets were wrong?	No.
(d) Whether the issue and circulation of the pamphlets affected materially the result of the election?	Does not arise.
(e) Whether the act of the Respondent No. 1 and/or his agents in issuing and circulating the pamphlet amounted to a major corrupt practice under Section 123(5) of the Act 43 of 1951?	No.
5. (a) Whether the Respondent No. 1 and/or his agents procured the assistance of village officers and/or of Patels?	Against the Petitioner.
(b) Whether Zingu Thiva Kumre was the seconder of the nomination of the Respondent No. 1?	"
(c) Whether Zingu Thiva Kumre and village Patels of Sawalkheda, Uradi, Sonerangi and Kosi, worked for the Respondent No. 1? Whether they exerted their official influence over the voters of the villages?	"
(d) Whether Kewoo Thurri Raj, was acting as village Patel at Kodholi? Whether he worked as Polling and/or canvassing agent for the Respondent No. 1?	"
(e) Whether the support of patels and patwaris of the constituency was enlisted by the Respondent No. 1? Are they servants of the State?	"
(f) Whether the Respondent No. 1 has committed, a major corrupt practice, on this account under section 123(8) of the Act 43 of 1951?	"
6. (a) Whether the Respondent No. 1, as president of the meetings of the Gond electors, brought pressure to bear upon the electors, that they should vote for him, and gave threats of boycott to those who would not do so?	"
(b) Was the election therefore not free, and was it under coercion and intimidation?	"
7. (a) Whether the list of polling stations was not published in the manner directed by the Election Commissioner? Whether proper steps were not taken, and whether the slips were faulty?	"
8. (a) Whether copies of the lists of polling stations were not sent to the Petitioner?	"
(b) Whether on or about 20th Decmber 1951, the village Kotwar of Lendhari proclaimed by beat of drum that the electors of the village should go on 22nd Decmber 1951 to vote at Purada?	"
(c) Whether the electors of Lendhari were told on 22nd December 1951, by the Presiding Officer of Purada Polling Station that the votes of the voters of Lendhari would not be cast at Purada?	"

<i>Issues</i>	<i>Findings</i>
(d) Whether the Presiding Officer of Purada Polling Station could not tell the Petitioner, where the voters of the village Lendhari were to vote?	Against the Petitioner.
(e) Whether all the voters of Lendhari were supporters of the Petitioner, and whether they returned without casting their votes?	"
(f) Whether this return of the voters of Lendhari led the voters of other villages near Purada to believe that votes were not to be cast at Purada?	"
(g) What is the number of votes that were lost to the Petitioner in this way?	"
(h) Whether the result of the election has been materially affected for this reason?	"
9. (a) Whether it had been proclaimed by beat of drum that temporary polling stations were to be put up at Ramgarh and Sonsori?	"
(b) Whether at the last minute the polling stations were located in the houses of the Zamindaris of the two places?	"
(c) Whether the Petitioner could not do canvassing properly for want of timely information?	"
(d) Whether the Zamindars worked against the Petitioner and for the Respondent No. 1, and the voters for the Petitioner could not freely vote owing to their improper influence?	"
(e) Whether the voters were not free to vote and whether the result of the election was materially affected thereby?	"
10. (a) Whether the voters at Badegaon, Gowardha, Wairagarh, Shiwani, Mohajhari placed ballot papers on the boxes and the Presiding Officers having been informed did not take steps to comply with the rules and clear the choked slits?	"
(b) Whether 2,000 votes which would have gone to the Petitioner, thus became invalid?	"
11. (a) Whether the slits of the ballot boxes were not scaled by the Presiding Officers?	"
(b) Whether the invalid votes at the polling stations were not collected, sorted and sealed separately?	"
(c) Whether the result has been materially affected thereby?	"
12. (a) Whether the election of the Respondent No. 1, is liable to be set aside?	No.
(b) What other directions should be given?	See para. 22.

REASONS FOR THE FINDINGS

4. *Issues 1, 3 and 5 to 11.*—The learned counsel for the Petitioner confined himself to issues Nos. 2 and 4 when he argued the case. It was conceded by him that the evidence adduced by the Petitioner on the other points was not sufficient to prove these points. We also find the evidence unsatisfactory and unreliable, and we find against the petitioner on all the other points raised in the case and giving rise to issues 1, 3 and 5 to 11.

5. *Issue 2(d).*—It has been admitted by the Respondent 1 that he was a teacher in the New English High School. It is also clear from the evidence of the Petitioner's witness Kawalkar (P.W. 3) that the Respondent 1 continued to be a teacher till he was removed from service on 31st August 1952 by a resolution of the Managing Committee of the School. The Respondent 1 himself in his notice Ex. P-37, sent through his pleader Shri R. B. Deo, claimed to have been in the service of the School till the end of January 1952. He claims a salary for January

1952 according to this notice. It is thus clear that the Respondent 1 was in service at the time he filed his nomination papers as a candidate for election from Purada Constituency.

6. The evidence of Petitioner's witness No. 3, Kawalkar, shows that the Respondent 1 was removed from service for his failure to attend to his duties without leave. That was on 31st August 1952. His removal, however, could not be any disqualification in the way of his standing for election, and we have only to consider whether his occupying the post of a teacher disqualified him.

7. *Issue No. 2(a)*—The evidence of Shri Kawalkar (P.W. 3) shows that Government used to pay to the Management Rs. 22 per month by way of its contribution towards the payment of compensatory cost of living allowance payable to the Respondent 1. Ex. P.44 shows that the Management used to contribute Rs. 8 per month towards the payment of this allowance and the Respondent 1 was thus paid Rs. 30 per month as compensatory cost of living allowance which is now called "dearness allowance". It would appear from the evidence of the Head-Master of the School, Kawalkar (P.W. 3), that Government used to place at the disposal of the Management a certain amount for payment of a portion of the dearness allowance. That portion, however, could not be used by the Management for any other purpose. The State of Madhya Pradesh did not directly pay the portion of the dearness allowance to the Respondent 1 or any other teacher of the School, but it was paid out of the funds earmarked for the purpose and placed at the disposal of the Management of the School for payment to the teachers. We find accordingly on issue No. 2(a).

8. *Issue No. 2(b)*.—It is admitted by the Respondent 1 that the school in which he was serving is a grant-in-aid school and the evidence of Kawalkar (P.W. 3) also proves it. The evidence of Kawalkar shows that the school receives an annual grant of Rs. 9,008. This grant is mixed with the funds belonging to the school, and out of this amalgamated fund the teachers are paid their salaries. We find accordingly on issue No. 2(b).

9. *Issues 2(c) and (e)*.—The next and the most important question to decide is whether in view of the facts found above it can be said that the Respondent 1 held an office of profit under the State Government. The learned counsel for the Petitioner conceded that the annual grant of Rs. 9,008 by Government was mixed by the Management with the funds belonging to the school and, therefore, it might be said that the amount paid by Government lost its character as government money once it was amalgamated with the other funds belonging to the school. But he contended that so far as the amount set apart for payment of a portion of the dearness allowance was concerned, that was an amount which was entrusted by Government to the Management to be used only for the payment of dearness allowance to the persons who were serving as teachers in the school, and that, as such, every teacher was a recipient from the Government of the portion of the dearness allowance for which funds were entrusted by them to the Management. Every teacher of the school thus derived advantage from the Government and he was therefore, a holder of an office of profit under Government. He referred to the dictionary meaning of the word 'under', which is, 'subordinate to' or 'situated beneath'. He also contended that the post of a teacher was an office of profit under Government, because Government had a right of supervision and inspection of the work of every teacher in the school. He also contended that it was at the sweet will of the Government that profits in the shape of dearness allowance or its portion were being paid to the teachers, that Government had a right to stop the payment any moment they liked, and that the office which carried emoluments which could be stopped by Government at their pleasure was, therefore, an office of profit under Government.

10. We have had the benefit of perusing the judgment of the Election Tribunal of Baroda in *Shrimati Hansa Ben Jivraj Mehta Vs. Indu Bhai and 5 others*, (Election Petition No. 23 of 1952 decided on 22nd July 1952). It is clear, the office of a teacher in the school in which the Respondent 1 was serving carried with it a pecuniary advantage or gain and it was an office of profit. The next question is whether it was an office of profit under the Government of the State of Madhya Pradesh. The various tests to be applied in determining whether a certain office is an office of profit under the Government of a State are laid down in *Shrimati Hansa Ben Mehta's* case. We find ourselves in full and respectful agreement with the observations made by the learned Members of the Tribunal in that case. The relevant observations are:—

"5. The residuary issue now left for decision is whether the Petitioner's office which is admittedly one of profit is 'held under the Government of a State'. In deciding this question various tests can be applied: (1) Whether the State Government has the power of appointing or

removing from office the Petitioner, (2) Whether it has power to issue directions to the Petitioner and compel obedience to such directions and (3) Whether the profit in question is derived by the Petitioner from the Government of the State."

As regards whether these should be satisfied cumulatively, i.e. all of them, or whether it is enough if only one or more of these tests is satisfied, the learned Members observed:—

"The argument of the learned counsel for the Petitioner was that all these tests should be satisfied cumulatively and then only could it be said that the Petitioner was holding an office under the Government of the State. It was, however, urged by the learned counsel for the Respondent 1 that the satisfaction of any of these tests, particularly the test of appointment to and/or removal from the office by the Government of the State, should be enough to come to the conclusion that the office is one held under the Government of the State. The fundamental principle underlying the provision in Article 102(1)(a) is well known. The idea behind the provision is that there should be no conflict between the duties of a member of a Legislature as such and his interests. In other words the object of Article 102(1)(a) is to disqualify a person from membership of the Legislature if he is indebted to Government for an office which carries profit and thus compromises his independence."

11. In Sir Thomas Erskine May's Treatise on 'The Law, Privileges, Proceedings and Usage of Parliament' the main considerations affecting the law on the subject of disqualification of certain office holders are stated to be:—

"(1) Incompatibility of certain non-ministerial offices with membership of the House of Commons (which must be taken to cover questions of a Member's relations with, and duties to, his constituents), (2) the need to limit the control or influence of the executive government over the House by means of an undue proportion of office-holders being members of the House, and (3) the essential condition of a certain number of ministers being members of the House for the purpose of ensuring control of the executive by Parliament." (Page 197).

To determine whether a person held an office of profit under the Government of a State or no, the real test would be whether the Government of the State had the power to appoint or dismiss such holder of office. The test of power of removal from office appears to us to be the most important test in the determination of the question. If Government of a State has the power to remove a person from office (and such Government would have the power to remove or dismiss him from office if it has the power to appoint him to such office) it must be held that the person holds that office under the Government of the State; and this is irrespective of whether the salary attached to the office is paid by the State or paid out of some other funds.

12. The Respondent 1 was appointed a teacher in the school by the Managing Body of the School. The Government of the State of Madhya Pradesh did not and could not appoint him to the office of the teacher in the school, which he held at the time of his nomination. The Government of the State of Madhya Pradesh could not also remove him from that office. That office could not, therefore, be said to be under the Government of the State of Madhya Pradesh. The Respondent 1, therefore, did not hold the office under the Government of the State of Madhya Pradesh. The office, though an office of profit, was not in our opinion held under the Government of the State of Madhya Pradesh. The Respondent 1 was not, therefore, disqualified from being chosen as a member to the State Legislative Assembly under Article 102(1)(a) of the Constitution of India. The Respondent 1's election, therefore, cannot be challenged on that ground.

13. *Issue No. 4(a).*—The evidence of Chandekar (P.W. 12) clearly shows that the order to print pamphlets like Ex. P-45 was given by one Bondale who was examined by the Respondent 1 as his witness (R. 1 W. 7). The evidence of Laxmikant (R. 1 W. 5) clearly shows that money for printing the pamphlets was paid by him on behalf of Respondent 3 Ranshah Bapu. The Respondent 1 denied that he had printed or issued any pamphlets like Ex. P-45. It is clear from the evidence of Bondale (R. 1 W. 7) and Laxmikant (R. 1 W. 5) that Bondale was one of the workers appointed by Ranshah Bapu and he had been authorized to work for Ranshah Bapu during the election campaign. It is also evident from the deposition of Bondale that late Shri Bali Ji Deo, a pleader of Chanda, was one of the members of the Committee which had decided to support the Respondent 3 Ranshah

Bapu in the election to the seat in the Parliament from the Chanda Parliamentary Constituency and he was also Ranshah Bapu's legal adviser. Bondale's evidence clearly shows that the pamphlet Ex. P-45 was got printed by him under instructions of Shri Baluji Deo, the legal adviser of Ranshah Bapu. We, therefore, hold that pamphlets like Ex. P-45 were issued by Bondale, who was one of the workers of Ranshah Bapu and not by Respondent 1.

14. The evidence of Kisansingh (P.W. 10), Hussain Alam (P.W. 13), Shrihari (P.W. 15), Ramchandra (P.W. 16), Saoji (P.W. 18), Lahanu (P.W. 19), Adku (P.W. 20) and Tikaram (P.W. 22), clearly shows that pamphlets like Ex. P-45 were distributed by Respondent 1's workers as also Ranshah Bapu's workers, Kisansingh (P.W. 10), Hussain Alam (P.W. 13), Saoji (P.W. 18) and Tikaram (P.W. 22). We find accordingly on the second part of issue No. 4(a) relating to distribution of pamphlets.

15. Issue No. 4(b).—It is clear from the evidence of Shri R. N. Pendharkar (R.1 W.6) that no polling agents could have been present at the polling stations on behalf of Respondent 1. The Respondent 1 may have appointed some polling agents, but they could not have worked as such. We find accordingly on issue No. 4(b).

16. Issue No. 4(c).—It is clear from the evidence of Bondale (R.1 W.7) and Laxmikant (R.1 W.5) that a meeting of certain persons was held to support the candidature of Respondent 3 Ranshah Bapu. At that meeting Ranshah Bapu was personally present, and it appears from the evidence on record that most of the persons supporting the candidature of Respondent 3 present at the meeting were members of the Jana Sangh. At that meeting Respondent 3 Ranshah Bapu had been advised not to contest the election to the State Assembly from the Purada Constituency. The evidence of these witnesses clearly shows that Ranshah Bapu remained silent on this suggestion, and did not protest, or assert that he was keen on contesting the election to the State Assembly from the Purada Constituency. It appears from the evidence on record that Respondent 3 did not launch any election campaign in connection with his election to the State Legislative Assembly. He did not care even to visit the Constituency after he had left Chanda about the end of November 1951. This would show that he had lost interest in the election to the State Assembly and he concentrated his attention on the election to the House of the People from the Chanda Parliamentary Constituency.

— 17. It is clear from the evidence of Laxmikant (R.1 W.5) that, when, soon after the election from the Purada Constituency was over, he told the Respondent 3 that he had learnt from the Jana Sangh workers that he (Respondent 3) had withdrawn from the contest regarding election from the Purada Constituency, he (Ranshah Bapu) did not contradict him or raise any objection. This conduct on the part of Respondent 3 would show that he had as a matter of fact withdrawn from the contest.

18. The evidence of Pandhari Patil (P.W. 2) clearly shows that he and some Congressmen had been to Ranshah Bapu and secured from him a writing showing that the contents of the pamphlet were false. It is clear Respondent 3 himself did not present any petition to challenge Respondent 1's election. Even the alleged complaint to the D.S.P. appears to have been made by Respondent 3 after discussions with Congressmen who saw him on the 8th of February 1952. This is clear from Ex. R.1 D.4, the letter addressed to Hussain Alam (P.W. 13) by Respondent 3. It appears that it was then that Respondent 3, probably at the instigation of the Congressmen of Chanda who had seen him, conceived the idea of action against the Respondent 1 for publication of the pamphlet Ex. P-45.

19. Hussain Alam's letter Ex. R.1 D.5 clearly shows that the Respondent 3 wanted to withdraw the petition which had been made to the D.S.P. in compliance with his wishes by Hussain Alam. The contents of the letter clearly show why the Respondent 3 was anxious to withdraw the complaint made by him to the D.S.P. Hussain Alam tried to explain that it was because Respondent 3 wanted to add something to the complaint. This explanation does not appear probable, because that could have been done by a second petition. It appears probable that having made the complaint Respondent 3 realized that it was probable that circumstances might disclose that the contents of the pamphlets were not false and his complaint would, therefore, appear to be unjustified. The language of the letter (R.1 D.5) shows that Respondent 3 had expressed to him that "even if he had withdrawn from the contest he had not done so in the manner represented in the pamphlet Ex. P-45". This would prove Respondent 3's admission to Hussain Alam regarding withdrawal from the contest, though according to him the withdrawal was not in the manner stated in the pamphlet.

20 It is clear from the evidence of Hussain Alam and others that those who were working for Respondent 2 actually started working for the Respondent 1. It would be surprising that Respondent 3's workers Hussain Alam (P.W. 13), Kisan-singh (P.W. 10), Saoji (P.W. 18) and Tikaram (P.W. 22) would change their course of conduct so suddenly on merely seeing the pamphlet without definite indications from Respondent 3 regarding his withdrawal from the contest and would believe without enquiry that the contents of the pamphlet were true. It is not improbable that on the advice of Baliji Deo, Bondale and others, the Respondent 3 agreed to withdraw from the contest in favour of Respondent 1, and Respondent 3 must have given indications to his workers to support the Respondent 1 in the election. This is the only reasonable explanation for the conduct of Respondent 3's workers in helping Respondent 1 in his election from the Purada Constituency. The circumstances discussed above would show that the contents of the pamphlet were not false, but were true. We find in the negative on issue No. 4(c).

21. *Issues 4(d) and (e).*—The issue and distribution of the pamphlets appear to have been authorised by the Respondent 3, and the conduct of Respondent 1 or his agents in distributing the pamphlets like Ex. P-45 (which we have held were issued and published by Bondale, agent of Ranshah Bapu) did not amount to a corrupt practice, since the pamphlets appear to have been issued in pursuance of instructions given by Respondent 3 to Baliji Deo. We hold that Respondent 1 and his agents did not issue the pamphlets and the act of Respondent 1 and his agents in circulating the pamphlets does not amount to a corrupt practice. In view of this finding the question whether the issue and circulation of the pamphlet materially affected the result of the election does not arise for decision.

22. In view of the findings recorded above, the election petition must fail and is dismissed.

We have been asked to award exemplary costs to the Respondent 1 against the Petitioner and Respondent 3. We do not think an order to pay any exemplary costs is really necessary in this case. It appears from the evidence that a few Congressmen from Chanda District taking advantage of the small majority with which the Respondent 1 won the election, hatched a scheme to have the election set aside and Respondent 3 was found by them an easy tool in their hands to achieve their object. Under the circumstances we think that the Respondent No. 3 should be held as much responsible for the costs of this case as the Petitioner himself. We, therefore, order that Respondent 1's costs be paid by the Petitioner and Respondent 3. The Petitioner and Respondents 2 to 5 shall bear their own costs.

(Sd.) N. H. MUJUMDAR, *Chairman.*

(Sd.) A. RAZAK, *Member.*

(Sd.) S. C. RAI, *Member.*

The 29th June 1953.

BEFORE THE ELECTION TRIBUNAL, NAGPUR

Shri N. H. Mujumdar, B.Sc., LL.B., *Chairman.*

Shri S. C. Rai, M.A., LL.B., *Member.*

Shri Abdul Razak Khan, Advocate, *Member.*

ELECTION PETITION No. 2 OF 1952

1. Krishnappa s/o Venkappa Tadorwar, age 34 years, of Armori, tehsil Garhachiroli, district Chanda—*Petitioner*

versus

1. Narayansingh s/o Sampatsingh, Wicke (Weakey),
2. Bajirao s/o Ganeshrao Kumre,
3. Raja Ranshah Bapu s/o Ganesha Bapu,
4. Narayanrao s/o Balaji Neral,
5. Ganeshdutt s/o Ishwardutt—*Respondents.*

PRESENT:

Shri R. G. Siras, Advocate, for the Petitioner.

Shri R. V. S. Mani, Advocate, for Respondent 1.

ORDER OF THE TRIBUNAL

(Delivered this 29th day of June 1953)

The election petition is dismissed, and the Petitioner and the Respondent 3 shall bear the Respondent 1's costs. The Petitioner and the Respondents Nos. 2 to 5 shall bear their own costs. Counsel's fee Rs. 250.

(Sd.) N. H. MUJUMDAR, *Chairman.*(Sd.) A. RAZAK, *Member.*

The 29th June 1953.

(Sd.) S. C. RAI, *Member.*

SCHEDULE OF COSTS INCURRED

Petitioner	Amount	Respondent No. 1	Amount	Respdt. Nos. 2 to 5
1. Stamp for Election Petition.	..	Stamp for Power	2-0-0	
2. Publication charges of Election Petition.	..	Exhibits	3-12-0	
3. Stamp for Power.	1-0-0	Services of processes	17-0-0	
4. Stamp for Exhibits	22-8-0			
5. Service of processes	22-8-0	Subsistance for witnesses	85-12-0	
6. Subsistance for witnesses.	599-6-0			
7. Pleader's fee (not certified).	..	Misc. Applications and Affidavits.	3-0-0	
8. Applications and Affidavits.	4-0-0			
9. Misc. expenses	..	Pleader's fee (certified, allowed).	250-0-0	Nil.
		Misc. Expenses.	6-13-0	
Total	649-6-0		368-5-0	Nil.

(Sd.) N. H. MUJUMDAR, *Chairman.*(Sd.) A. RAZAK, *Member.*

The 29th June 1953.

(Sd.) S. C. RAI, *Member.*

[No. 19/291/52-Elec.III/11117.]

By Order,

P. R. KRISHNAMURTHY, *Asstt. Secy.*

